



**VOSH PROGRAM DIRECTIVE: 12-118H**

**ISSUED: December 15, 1998**

**SUBJECT: Occupational Exposure to Asbestos, General Industry, § 1910.1001, Shipyard Employment, § 1915.1001, and Construction, § 1926.1101; Revised Final Rule**

**A. Purpose.**

This directive transmits to field personnel revisions to the final rule for Occupational Exposure to Asbestos for General Industry, § 1910.1001, Shipyard Employment, § 1915.1001 and Construction, § 1926.1101.

*This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.*

**B. Scope.**

This directive applies to all VOSH personnel, and specifically to Occupational Health Compliance and Cooperative Programs personnel.

**C. Action.**

The Deputy Commissioner, Directors and Managers shall assure that field personnel understand this Directive and ensure compliance with the provisions of these revised standards.

**D. Effective Date.**

January 1, 1999

**E. Expiration Date.**

Not Applicable.

**F. Background.**

On August 10, 1994, federal OSHA published final standards regarding occupational asbestos exposure, 29 CFR 1910.1001 for General Industry, 29 CFR 1915.1001 for Shipyard Employment, and 29 CFR 1926.1101 for Construction (59 FR 40964) . On June 29, 1995, OSHA issued amendments to correct

and clarify various provisions of the construction and shipyard employment standards (60 FR 33974).

The Asbestos Information Association/North American (AIA/NA) petitioned for review of the construction and maritime standards' requirements for work practices, training, and hazard communication for asphalt roof cements, coatings and mastics which contain asbestos. In *AIA*, the court vacated the standards insofar as they regulate these materials because there was a lack of substantial evidence that asphalt roof coatings and sealants containing asbestos posed a risk of asbestos exposure.

**G. Summary.**

Federal OSHA revised the Construction and Shipyard standards regulating occupational exposure to asbestos to conform its standards to the Court of Appeals decision in *Asbestos Information Association/North America v. Reich*, 117 F.3d 891 (5th Cir.1997) [hereinafter referred to as *AIA*]. In that case, the Court held that there was a lack of substantial evidence that asphalt roof coatings and sealants containing asbestos posed a risk of asbestos exposure. As such, the Court vacated the construction and shipyard standards' regulations of asbestos-containing roofing cements, mastics and coatings from the OSHA standards for occupational exposure to asbestos.

Specifically, OSHA added the change presented here for your consideration in paragraph (a) in both standards to state that the standards do not apply to asbestos-containing asphalt roof cements, coatings and mastics. In paragraph (g)(12) of the shipyard employment standard, covering inspections by qualified persons, and in paragraph (g)(11) of the construction standard, covering alternative work practices, OSHA deleted references to roofing cements, mastic and coatings.

The court's decision did not affect the general industry asbestos standard which remains unchanged.

John Mills Barr  
Commissioner

E-Attachment: 63 FR 35137 (June 29, 1998)

[https://www.osha.gov/FedReg\\_osha\\_pdf/FED19980629.pdf](https://www.osha.gov/FedReg_osha_pdf/FED19980629.pdf)

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**OCCUPATIONAL EXPOSURE TO ASBESTOS FOR GENERAL INDUSTRY, § 1910.1001,  
SHIPYARD EMPLOYMENT, § 1915.1001, AND CONSTRUCTION, § 1926.1101; REVISED FINAL  
RULE**

As adopted by the  
Safety and Health Codes Board

Date: October 19, 1998



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective date: January 1, 1999

16 VAC 25-90-1910.1001, Occupational Exposure to Asbestos, General Industry, 1910.1000  
16 VAC 25-100-1915.1001, Occupational Exposure to Asbestos, Shipyard Employment, 1915.1001  
16 VAC 25-175-1926.1101, Asbestos Standard for Construction Industry, 1926.1101

When the regulations, as set forth in the revised final rule on Occupational Exposure to Asbestos for Shipyard Employment, § 1915.1001, and for Construction, § 1926.1101, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

July 24, 1997

January 1, 1999